

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

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In re:	:	
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THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-3283 (LTS)
	:	
THE COMMONWEALTH OF PUERTO RICO <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors. ¹	:	

	X	
	:	
In re:	:	
	:	
THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-4780 (LTS)
	:	
PUERTO RICO ELECTRIC POWER AUTHORITY	:	This filing relates only to
	:	Case No. 17-BK-4780 (LTS)
	:	
Debtor.	:	

**URGENT APPLICATION OF OFFICIAL COMMITTEE OF UNSECURED
CREDITORS' FOR ENTRY OF ORDER AUTHORIZING EMPLOYMENT AND
RETENTION OF LONDON ECONOMICS INTERNATIONAL LLC AS FINANCIAL
ADVISOR, EFFECTIVE AS OF APRIL 26, 2022, IN PREPA'S TITLE III CASE**

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judge Laura Taylor Swain:

The Official Committee of Unsecured Creditors (the “Committee”)² hereby files this urgent application (the “Application”) for entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the retention and employment of London Economics International LLC (“LEI”) as its financial advisor pursuant to section 1103 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) (made applicable to these cases by section 301 of the Puerto Rico Oversight, Management and Economic Stability Act of 2016 or “PROMESA”), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Puerto Rico (the “Local Rules”) in connection with the PREPA mediation and any other matters (including litigation) related to the confirmation of a plan of adjustment for PREPA. In support of the Application, the Committee relies upon and incorporates by reference the *Declaration of Julia Frayer in Support of Urgent Application of Official Committee of Unsecured Creditors’ for Entry of Order Authorizing Employment and Retention of London Economics International LLC as Financial Advisor, Effective as of April 26, 2022, in PREPA’s Title III Case* (the “Frayer Declaration”), attached hereto as **Exhibit B**. In further support of this Application, the Committee states as follows:

PRELIMINARY STATEMENT

1. By this Application, the Committee seeks to retain LEI as its financial advisor in connection with PREPA’s Title III case, including the PREPA mediation and any other matters (including litigation) related to the confirmation of a plan of adjustment for PREPA. The

² The Committee is the official committee of unsecured creditors for all Title III Debtors, other than PBA and COFINA.

Committee submits that its retention of LEI is appropriate in light of (a) the termination of the RSA (as defined below), which effectively moots the motion seeking approval of the RSA, (b) the Court's order appointing the Mediation Team and directing mediation regarding the PREPA restructuring, and (c) the anticipated application of the Mediation Team seeking to retain Moelis & Company ("Moelis") as its own financial advisory firm. If retained, LEI will, among other things, interact with Moelis as well as the advisors of other Mediation Parties with respect to key issues, including the amount of PREPA's sustainable debt burden.

2. As detailed below, LEI is a global economic, financial, and strategic advisory professional services firm specializing in energy, water, and infrastructure, with a particular focus on analyzing electricity sector dynamics and advising on regulatory best practices for **island nations**.³ Moreover, given its prior work for the Committee, LEI is already intimately familiar with PREPA, its financial circumstances, and its rate structure, and, accordingly, LEI will **not** need to incur the expense and delay of having to familiarize itself with these issues. For these reasons, and as further detailed below, the Committee believes that LEI is uniquely qualified to render the services required in connection with the mediation and/or, if necessary, any litigation related to PREPA's restructuring.

3. As the Court will recall, the Committee had previously engaged (through Paul Hastings) LEI to prepare an expert report in connection with the Committee's objection to the Oversight Board's motion for approval of a restructuring support agreement, which report was ultimately excluded by the Court. To be clear, through this Application, the Committee is not seeking to challenge the exclusion of LEI's expert report or taking a position regarding the Fee

³ While the Committee recognizes that it already has engaged a financial advisor (*i.e.*, Zolfo Cooper) in these Title III cases, Zolfo Cooper does not have the unique expertise that LEI brings to table as it relates to utilities for island nations.

Examiner's review of LEI's fees, which review remains pending as of the time of this Application (and with respect to which the Committee and LEI reserve all rights). This Application seeks to retain LEI **on a going-forward basis** to provide the Committee with the much-needed assistance as it relates to the PREPA mediation and any litigation that may ensue as part of confirmation of a PREPA plan of adjustment.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to section 306(a) of PROMESA, and venue is proper pursuant to section 307(a) of PROMESA.

BACKGROUND

5. On July 2, 2017, the Financial Oversight and Management Board for Puerto Rico (the "Oversight Board") commenced a Title III case for the Puerto Rico Electric Power Authority ("PREPA") by filing a voluntary petition for relief pursuant to section 304(a) of PROMESA, commencing PREPA's title III case (the "Title III Case").

6. On May 3, 2019, the Oversight Board, PREPA, the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAF" and, together with PREPA and the Oversight Board, the "Government Parties"), the Ad Hoc Group of PREPA Bondholders, and Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (collectively "Assured") entered into a restructuring support agreement (the "RSA"). On May 10, 2019, the Government Parties filed the 9019 Motion,⁴ seeking an order approving the settlements embodied in the RSA.

⁴ "9019 Motion" refers collectively to the *Joint Motion of Puerto Rico Electric Power Authority and AAFAF Pursuant to Bankruptcy Code Sections 362, 502, 922, and 928, and Bankruptcy Rules 3012(a)(1) and 9019 for Order Approving Settlements Embodied in the Restructuring Support Agreement and Tolling Certain Limitations Periods* [Docket No. 1235], as supplemented by the amended proposed order filed on June 18, 2019 [Docket No. 1361, Ex. A], and the supplemental memorandum of law and facts and supporting declarations the Government Parties filed on July 2, 2019 [Docket Nos. 1425, 1426, 1427, 1428, 1429]. All citations herein to the docket are to Case No. 17-BK-4780 (LTS) unless otherwise specified.

7. In connection with its objection to the 9019 Motion, the Committee engaged (through its counsel, Paul Hastings, LLP) LEI to provide expert services, including performing economic analyses, preparing an opening expert report, sitting for a deposition, and testifying at the anticipated hearing on the 9019 Motion. On October 30, 2019, the Committee served an expert report by LEI on the Government Parties in connection with the hearing on the 9019 Motion (the “LEI Report”).⁵

8. After numerous adjournments of the 9019 Motion, on March 8, 2022, the Governor of Puerto Rico and AAFAF’s executive director announced the government of Puerto Rico had exercised its right to terminate the RSA. *See AAFAF’s Informative Motion Regarding Termination of the PREPA RSA* [Docket No. 2747]. The termination of the RSA effectively moots the 9019 Motion.

9. Subsequently, on April 8, 2022, the Court issued an *Order Appointing Mediation Team* [Docket No. 2772] appointing the Honorable Shelley C. Chapman as lead mediator, the Honorable Robert D. Drain, and the Honorable Brendan L. Shannon as mediators (collectively, the “Mediation Team”) to facilitate confidential negotiations among (a) the Oversight Board, (b) AAFAF, (c) the Ad Hoc Group, (d) National, (e) Assured, (f) Syncora, (g) UTIER, (h) SREAEE, (i) the Committee, and (j) PREPA’s fuel line lender (collectively, the “Mediation Parties”) (and any other Mediation Party added in the Mediation Team’s discretion) regarding the Mediation Topics (the “Mediation”). That same day, the Court issued an *Order Establishing the Terms and Conditions of Mediation* [Docket No. 2773] establishing the terms and conditions of the Mediation.

⁵ By order dated November 20, 2019 [Docket No. 1757], the Court precluded the Committee from entering the LEI Report into evidence at the 9019 Motion hearing, and bringing the matter to the attention of the Fee Examiner for his review. The Fee Examiner’s review remains pending at this time.

RELIEF REQUESTED AND REASONS THEREFOR

10. By this Application, the Committee requests entry of the proposed order attached hereto as **Exhibit A**, pursuant to section 1103(a) of the Bankruptcy Code (made applicable to these Title III cases by section 301 of PROMESA), Bankruptcy Rule 2014, and Local Rule 2014-1(e), and, to the extent required by the foregoing, the guidelines adopted by the Executive Office for United States Trustees, approving the employment and retention of LEI, effective as of April 26, 2022, as its financial advisor in connection with the PREPA mediation and any other matters (including litigation) related to the confirmation of a plan of adjustment for PREPA on the terms set forth in this Application, the Frayer Declaration, and the engagement letter, dated as of April 22, 2022 (the “Engagement Letter”), a copy of which is attached hereto as **Exhibit C**.

11. LEI is a global economic, financial, and strategic advisory professional services firm specializing in energy, water, and infrastructure, which has advised private sector clients, market institutions, and governments on privatization, asset valuation, rate forecasting, and strategy in virtually all deregulating markets worldwide. Furthermore, LEI has a wide range of experience working on projects related to analyzing electricity sector dynamics and advising on regulatory best practices for island nations (as further detailed below). Accordingly, LEI is uniquely qualified to render the services described below.

12. As noted above, the Committee had previously retained (through its counsel) LEI to provide expert services in connection with the 9019 Motion, including preparation of the LEI Report, which was ultimately excluded by the Court. To be clear, through this Application, the Committee is not disputing the exclusion of LEI’s expert report or taking a position regarding the Fee Examiner’s review of LEI’s fees, which review remains pending as of the time of this Application (and with respect to which the Committee and LEI reserve all rights).

13. This Application seeks the Court's approval for the Committee to retain LEI on a going-forward basis as a financial advisor in connection with the Title III Case, including the Mediation. As noted above, the Committee understands that the Mediation Team will seek to retain Moelis to assist the Mediation Team to understand what debt burden is sustainable by PREPA. As such, the Committee requires its own financial advisor in order to, among other things, be able to properly formulate and address the Committee's perspective on issue of what debt burden is sustainable by PREPA.

14. LEI is ideally positioned to provide these services. First and foremost, LEI unquestionably has the expertise in analyzing electric utilities for island nations, and is therefore uniquely equipped to assist and advise the Committee in regards to issues relating to PREPA's debt burden and its long term sustainability. In fact, for over 20 years, LEI has performed extensive consulting and advisory work related to the electricity and infrastructure sectors across North America and globally (including numerous island jurisdictions), advising clients and regulators on regulatory reform, privatization and asset valuations, electricity market design, system planning, and procurement of resources. Among other things, LEI conducts rate design reviews and cost allocation studies, along with counseling governments, utilities and regulators on how to design efficient and sustainable tariffs. Furthermore, LEI has engaged with utilities, regulators, and other government bodies in several islands on a wide range of electricity policy topics, including issues relating to the emergence of new technology. Some of LEI's experiences working with island-based electricity utilities or regulators includes the following projects:

- For the **Hawaii** government, LEI provided a study to assess options for transforming the ownership and regulatory model used to govern its electricity sector;

- For the government of **Nova Scotia**, LEI performed several analyses related to the organization and governance of electricity systems, with an eye toward harnessing best practices from other jurisdictions;
- At the request of **Barbados Power & Light** and its investors, LEI staff conducted a workshop for regulatory stakeholders on the island in relation to the basics for implementing performance based regulation for their island power system;
- LEI performed an economic evaluation of different supply resources and advised on PPA structures in **Dominican Republic** for a developer;
- LEI was retained by TasNetworks, a state-owned utility responsible for transmission and distribution throughout the island of **Tasmania**, Australia to provide expertise on electricity transmission pricing to support the adoption of a 'beneficiary pays' approach;
- LEI staff delivered technical assistance to the **Haitian Energy Regulatory Agency** to empower the newly created regulatory authority (along with other stakeholders) with theoretical knowledge (backed by practical case studies), and best practices;
- For a power utility in the **Caribbean** (the name is being withheld for confidentiality reasons), LEI performed an intensive study of the types of PBR employed by regulators worldwide and the implications for key stakeholders, culminating in workshops for the regulator, utility managers, and government representatives;
- LEI provided a preliminary valuation of various overseas generation and distribution assets located in the Caribbean (including **Curaçao**, **Grand Bahama**, **Jamaica**, and **Trinidad and Tobago**) and the Philippines for a private equity firm considering an acquisition; and
- In 2022, LEI led a consortium retained by the United Nations Economic and Social Commission for Asia and the Pacific to develop a toolkit aiming at increasing the capacity of **Pacific Island Countries and Territories** policy makers to use energy connectivity principles (collaboration, coordination, and harmonization) to support sub-regional and national efforts to meet the UN Sustainable Development Goals and to develop more integrated energy markets in the Pacific Sub-Region.

15. For these reasons, the Committee believes that LEI is ideally positioned to advise the Committee in PREPA's Title III Case.

16. While the Committee recognizes that it already has a financial advisor (Zolfo Cooper), Zolfo Cooper does not have the unique expertise that LEI brings to table in analyzing utilities for island nations. In fact, LEI is uniquely equipped to assist and advise the Committee in regards to issues relating to PREPA's debt burden and its long term sustainability. Moreover, given its prior work for the Committee, LEI is already familiar with PREPA, its financial circumstances, and its rate structure, and, accordingly, LEI will **not** need to incur the expense and delay of having to familiarize itself with these issues.

17. For these reasons, pursuant to section 1103(a) of the Bankruptcy Code, made applicable to these cases by section 301 of PROMESA, the Committee requests that this Court approve the employment of LEI as its financial advisor to perform the following services, among others:

- a. analyzing reports, data, and analyses relating to PREPA's debt burden and its sustainability;
- b. analyzing PREPA's budget, assets and liabilities, and overall financial condition;
- c. reviewing financial and operational information furnished by PREPA to the Committee;
- d. analyzing PREPA's proposed business plan and developing alternative scenarios, if necessary;
- e. assisting the Committee in reviewing PREPA's financial reports;
- f. advising the Committee in the Mediation with the Mediation Team and the Mediation Parties as necessary;
- g. if necessary, preparing expert reports and participating as a witness in hearings before the Court with respect to matters upon which LEI has provided advice; and
- h. other activities as are approved by the Committee, the Committee's counsel, and as agreed to by LEI.

18. LEI has advised the Committee that it intends to apply to the Court for compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, U.S. Trustee Guidelines, and any administrative compensation order entered in these cases. The proposed rates of compensation, subject to final Court approval, are the customary hourly rates in effect when services are performed by professionals and paraprofessionals who provide services to the Committee. These hourly rates are subject to periodic adjustment and the Committee has been advised of that fact.

19. LEI's current hourly rates are:

President	\$935
Managing Director	\$900
Director	\$715
Managing Consultant	\$635
Senior Consultant	\$440
Consultant	\$435
Research Associate	\$325
Admin	\$150

20. The hourly rates set forth above are subject to periodic adjustments to reflect economic and other conditions. LEI intends to provide twenty-one (21) days' notice of any such increases to PREPA and the United States Trustee, and will file such notice with the Court. The U.S. Trustee, the Fee Examiner, and all parties-in-interest retain all rights to object to any rate increase

21. Additionally, LEI will bill for all out-of-pocket expenses reasonably incurred by LEI in connection with the matters contemplated by this Application.

22. Based upon the Frayer Declaration, filed contemporaneously herewith, the Committee is satisfied that (i) LEI represents no interest adverse to the Committee, PREPA, or any other party in interest in the matters upon which it is to be engaged and that its employment is in the best interest of PREPA, (ii) LEI has no connection with the U.S. Trustee or any other

person employed in the office of the U.S. Trustee, and (iii) LEI has not been paid any retainer against which to bill fees and expenses. To the best of the Committee's knowledge, LEI has no connection with creditors or any other party in interest except as discussed above or as otherwise noted in the Frayer Declaration.

23. The Committee requests approval of the employment of LEI effective as of April 26, 2022. Such relief is warranted by the circumstances presented in the Title III Case, such as the fact that the Mediation has already commenced and the Mediation Team is expected to seek the retain Moelis soon. The foregoing necessitated that LEI immediately commence work on time-sensitive matters and promptly devote substantial resources to PREPA's case pending submission and approval of this Application.

24. Prior to filing this Application, the Committee has contacted the Oversight Board and AAFAF to advise them of the Committee's intention to retain LEI as its financial advisor. **The Oversight Board has confirmed that it has no objection to such retention.** At the time of the filing of this Application, AAFAF has not yet been able to respond to the Committee's inquiry.

NOTICE

25. Notice of this Application will be provided in accordance with the procedures set forth in the Sixteenth Amended Case Management Procedures [Docket No. 20190-1 in Case No. 17-3283]. The Committee respectfully submits that no further notice is required.

NO PRIOR REQUEST

26. No prior request for the relief sought herein has been made to this Court or any other court.

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WHEREFORE, the Committee respectfully requests that it be authorized to retain and employ London Economics International LLC as its financial advisor effective as of April 26, 2022, and for such other further relief as is deemed just and proper.

Dated: April 26, 2022

By: /s/ Luc A. Despins

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